

SFIREG December 7th EPA-OPP Internal Talking Points

30-minute timeslot; public session; EPA Speaker: Meg Hathaway

Presentation Objectives:

1. Provide an update to SFIREG on dicamba.
2. Thank participants for past data submissions and conversations. Invite final edits/comments on minutes for the September 2021 AAPCO meeting with EPA, and additional dialogue, especially regarding the 2021 growing season.

Agenda

1. Introductions: Meg Hathaway introduces herself and thanks SFIREG for the opportunity to speak today.
2. Current status of over-the-top dicamba and EPA
 - I'd like to address the steps EPA is taking to evaluate the risks posed by use of dicamba on dicamba-tolerant crops.
 - In October 2020, EPA published a registration decision that included five-year registration actions for three products approved for use on dicamba-tolerant cotton and soybeans.
 - o EPA's 2020 dicamba registration decision was informed by input from state regulators, grower groups, academic researchers, pesticide manufacturers, and others.
 - o It included measures designed to prevent damage to non-target plants, while allowing use of dicamba in a manner expected not to affect listed species or otherwise cause unreasonable, adverse effects on the environment.
 - o The 2021 growing season was the first year those labels were used in the field.
 - o However, **despite the control measures EPA established in 2020, EPA has received many reports of dicamba-related damage during the 2021 growing season.**
 - EPA is committed to scientific integrity and making evidence-based determinations that rely on the input of career scientists.
 - The agency is extremely concerned by these reports and is thoroughly reviewing the available data in order to understand the performance of over-the-top (OTT) use dicamba labels during the 2021 growing season.
 - **What EPA is seeing so far indicates that dicamba-related damage still occurred in the 2021 season, including incidents in counties where additional Endangered Species Act-related control measures were required.**
 - EPA conducted information-gathering with key stakeholders to understand the impacts of the new label and thanks those stakeholder for all of the information that has been shared with EPA regarding the 2021 growing season, as well as the discussions that we have been able to have with many of you. We appreciate you for sharing your time and knowledge with us and want to continue to keep lines of communication open on dicamba in the future.
3. Update on recent stakeholder outreach.
 - As noted during this year's September SFIREG meeting, EPA has been engaging with stakeholders and held calls this year with representatives from various states in order to learn more about regional experiences with dicamba during the 2021 growing season. These discussions have helped EPA further understand the conditions on the ground.

- **A highlight of these information-gathering sessions were an August 30th, 2021 meeting with representatives from WSSA and a September 2nd, 2021 meeting with certain AAPCO members. EPA is in the process of finalizing notes from these two meetings.**
 - o The Aug. 30, 2021 dicamba listening session between EPA and the Weed Science Society of America (WSSA) members was also attended by various academics, state agriculture extension agents, and the U.S. Department of Agriculture.
 - EPA gives special thanks to **Mark VanGessel and Lee Van Wychen** for organizing this conversation.
 - Comments have been received from attendees on EPA's draft summary of the meeting and the Agency is currently working to incorporate those comments into a final draft.
 - o Regarding the Sept. 2, 2021 listening session with the Association of American Pesticide Control Officials (AAPCO), EPA believes that it has now received all attendee comments on its draft summary of the meeting.
 - **If there are any additional comments that have yet to be sent to EPA by attendees of this meeting, the Agency asks that they be sent to EPA asap within two business days of today.**
 - EPA gives special thanks to **Pat Jones and Amy Sullivan** for organizing this meeting.

4. Regulatory actions being undertaken by EPA

- Registration review has been initiated for dicamba.
 - o This process is part of EPA's regular process of evaluating all active ingredients approved for pesticidal use on a rolling, 15-year cycle.
 - o Reg. review considers all current dicamba registrations, not just those from the 2020 registration decision. When a draft risk assessment publishes, it will be posted for public comment on regulations.gov.
- Regarding the over-the-top dicamba registrations specifically...
 - o **At this time, EPA has not made any decisions regarding altering the dicamba 2020 registrations.**
 - o EPA is continuing to evaluate the effectiveness of the 2020 control measures and intends to communicate its findings as soon as possible.
 - o **The Agency is no longer certain whether over-the-top dicamba can be used in a manner that is protective of listed species, their designated critical habitats, and non-target plants.**
 - o EPA is concerned that these off-target incidents in 2021 may increase litigation risk for the dicamba registrations.
 - o **If data demonstrate the 2020 control measures are insufficient, the Agency can take appropriate regulatory action to address unreasonable adverse effects.**
- 6(a)(2) letters:
 - o As part of this information gathering effort, EPA recently issued letters to the registrant companies of dicamba products approved for over-the-top use, reminding them of their legal requirements for data reporting and specifically identifies certain types of information concerning these products as being reportable.

- Copies of those letters are publicly available on regulations.gov in docket [EPA-HQ-OPP-2020-0492](#).
 - We have received registrant responses to these letters and we are currently working on reviewing, analyzing and assessing the data received from the registrants.
 - **In addition, EPA has received information from at least one registrant regarding suggestions for potential ways to incorporate additional mitigation on current labels.**
- 24(c) policy for next year
- EPA did take each request this year seriously
 - Those requests were carefully evaluated by the EPA team
 - We recognize some of the states who received disapprovals were frustrated by EPA's decisions.
 - EPA considers and reviews all 24(c) registrations on a case by case basis. All 24(c) registrations must meet the FIFRA statutory standard of "no unreasonable adverse effects on the environment." As such, any 24(c) dicamba registration would need to include adequate data, information, and analysis to show that the additional use (e.g., extending the application cutoff date for dicamba) will not result in unreasonable adverse effects. If you are considering a 24(c) registration for dicamba this upcoming season you should consult with EPA once you know your desired parameters.
 - We intend to continue working with you on 24(c)s in the future.
 - **Please note that the following SFIREG session today after this time about dicamba will cover 24(c)s in greater detail.**

BACK POCKET NOTES

- Current dicamba litigation
 - Litigation regarding the 2020 dicamba decision is currently in progress. The DC Circuit Court has issued a scheduling order detailing the following dates:
 - Submission of Petitioners' Brief February 7, 2022
 - Submission of EPA's Brief April 25, 2022
- Supply chain issues:
 - EPA is mindful of growers' need to use useful agricultural tools and the need align any regulatory decision it may make regarding dicamba with farmers' ability to purchase pesticides and other agricultural inputs for the upcoming growing season.